

**MINUTES OF THE  
UTAH TAX REVIEW COMMISSION**

Friday, May 20, 2005 – 1:00 p.m. – Room W125 House Building

**Members Present:**

Mr. M. Keith Prescott, Chair  
Mr. David Crapo, Vice Chair  
Sen. Brent Goodfellow  
Rep. Wayne Harper  
Rep. Rosalind J. McGee  
Mr. Mark K. Buchi  
Ms. Janis A. Dubno  
Ms. Kathleen Howell  
Comm. Bruce Johnson  
Mr. Dixie Leavitt

**Members Absent:**

Sen. Lyle W. Hillyard  
Mr. Larry Barusch  
Mr. Gary Cornia  
Mr. Bruce Jones

**Staff Present:**

Mr. Phillip V. Dean, Policy Analyst  
Mr. Bryant Howe, Assistant Director  
Ms. Rebecca L. Rockwell, Associate General Counsel  
Ms. Phalin L. Flowers, Legislative Secretary

**Note:** A list of others present and a copy of related materials can be found at [www.le.utah.gov](http://www.le.utah.gov) or by contacting the committee secretary, Phalin Flowers, at 538-1032. A recording of the meeting is available from the committee secretary.

**1. TRC Business**

Chair Prescott called the meeting to order at 1:12 p.m.

**MOTION:** Mr. Buchi moved to approve the minutes of the April 22, 2005 meeting. The motion passed unanimously with Sen. Goodfellow absent for the vote.

Mr. Howe gave the Utah Tax Review Commission (TRC) an update on the activities of the Tax Reform Task Force. He distributed and discussed "Subcommittee Study Topics and Membership" and "Goals and Principles."

Rep. Harper explained that the next Task Force meeting would review former Governor Walker's tax advisors' recommendations.

Chair Prescott introduced Rep. Rosalind J. McGee as a new member of the TRC.

**2. Oil and Gas Severance Tax Issues**

Mr. Lee Peacock, President, Utah Petroleum Association, distributed a memo to the TRC. He also distributed and discussed two reports from the Division of Oil, Gas and Mining concerning Utah oil and gas producing companies, and "Estimated Costs of Drilling and Equipping Wells, by Depth Interval - 2003."

Mr. Peacock said that major oil and gas producing companies do not operate in Utah. He noted that because these companies have exited the state, other smaller companies are now the source of most oil and gas production. Mr. Peacock said that in the last 10 to 20 years the traditional mid-range well depth interval has given way to much deeper wells. He also noted that coal-bed methane wells in Carbon and Emery County are typically shallow wells that are between 2,000 and 4,000 feet deep. However, Mr.

Peacock commented that this drilling has recently slowed in both number of holes drilled and output per well. He also said that the Uintah Basin is now experiencing a boom in production and exploration, and that drilling depths for new wells in this area are typically between 12,000 and 16,000 feet deep. Mr. Peacock noted that these wells are expensive and complex to drill.

Mr. Prescott asked whether data exists that show an expected cost benefit relationship in exploration and production by state.

Mr. Peacock replied that individual companies possess such data and they may not be willing to publicly disclose this information. Mr. Peacock also said that Utah is an expensive place to conduct oil and gas exploration, especially during a "boom" cycle. He commented that labor and materials are scarce and it is expensive to ship machinery and equipment from major oil and gas producing areas of the country to Utah. Operation costs in the last year have increased between 20 and 25 percent. Mr. Peacock also said that Utah is a "poster child" with regards to environmental controversies over use of public lands. Consequently, whenever a lease is contemplated by federal authorities, oil and gas companies must litigate to defend these leases.

Dr. Shelby Gerking, Galloway Professor of Economics, University of Central Florida, spoke to the TRC via telephone regarding his report "Effective Tax Rates on Oil and Gas Production: A Ten State Comparison." Dr. Gerking said that in reviewing this report, TRC members need to remember that property taxes and severance tax payments often lag production. In addition, taxes are often appealed and taxes paid may actually be lower than are reported initially to state tax departments. Dr. Gerking explained that the purpose of the report is to compare state and local taxation of the oil and gas industry in ten major producing states. He said that production and drilling costs differ widely between states, much more widely than do state and local taxes. With regards to production taxes, Dr. Gerking noted that only Kansas and Colorado have a lower effective rate for production taxes on both oil and gas. He said that Louisiana has a lower effect rate on gas and Wyoming and Utah have the same effective rate on gas.

Mr. Barusch asked whether it is important for tax rates to be stable. Dr. Gerking replied that industry leaders look at return on investment in Utah versus other states and will make financial decisions based on those expected returns.

Mr. Rulan Gill, Questar Corporation, told the TRC that most of the oil and gas that is easy to find has already been located in Utah and that all that is left is very expensive to recover. He discussed the cost of wells and expected recovery costs that must also be considered.

Mr. Prescott asked Mr. Gill for a copy of his testimony in writing.

Mr. Peacock distributed to the TRC a letter prepared by Dr. Hal Heaton of the Marriot School of Management at Brigham Young University. Mr. Peacock explained that Dr. Heaton was retained by the Utah Petroleum Association to review the study conducted by Dr. Gerking. Mr. Peacock summarized Dr. Heaton's letter by stating that the report does not provide the key information that would be required to understand the impact on the industry of changing the tax law.

Mr. Prescott asked that a summary of the research and findings be presented at a future TRC meeting for further consideration.

### **3. Review of Sales and Use Tax Exemptions**

Ms. Rockwell distributed "Intrastate Movement of Freight or Passengers." She explained that this document provides selected highlights regarding this sales and use tax exemption, but is not intended to be a comprehensive overview of the legislative history, legal, or administrative issues. She reviewed the document including recent legislative actions and legal and administrative issues. She also reviewed the sales and use tax treatment of intrastate movement of freight or passengers in other western states.

Mr. Don Winder, Winder & Haslam, told the TRC that he represents the three major taxi companies that do business in Salt Lake City. He said that the sales and use tax exemption for intrastate movement of persons by taxicabs should be retained. He warned that collecting sales and use taxes on taxicab fares presents a host of technical, legal, and practical problems. He also distributed "Taxicab Sales Tax Exemption Fact Sheet." This fact sheet stated that only two states impose sales and use taxes on taxicab fares and that this tax would be a regressive tax on the poor, blind, and disabled.

Ms. Annette Overson, Owner, Carriage For Hire, Inc., told the TRC that her business struggles to remain profitable. She said that many other carriage companies have failed for a variety of reasons, including construction and insurance issues. Her company must also contend with high costs of hay and fuel. As with taxicabs, Mr. Overson said that it would be difficult for drivers of horse-drawn carriages to collect sales and use taxes in addition to a carriage fare and be expected to make proper change for customers.

Mr. Howe distributed "Redesignation of Intrastate Movement of Passengers: SIC to NAICS." He explained that the statutory language of the sales and use tax exemption refers to a category of the 1987 Standard Industrial Classification (SIC) Manual. This manual has been replaced by the North American Industrial Classification System (NAICS). Mr. Howe said that the handout describes the current classification under SIC and what a potential new designation might be under NAICS.

**MOTION:** Mr. Leavitt moved to retain the sales and use tax exemption for the intrastate movement of freight by common carriers and the sales and use tax exemption for the intrastate movement of passengers.

Mr. Jones said that he supports the motion. He said that if a sales and use tax were to be imposed, it would likely reduce tips available to drivers. In addition, the revenue gains would be small and administration and collection of a tax would be extremely difficult for taxicab and horse-drawn carriage drivers.

**SUBSTITUTE MOTION:** Mr. Buchi moved to retain the exemption but to modify the provisions of Subsection 59-12-104(16)(b)(ii) to eliminate the restriction that transportation must originate and terminate within a county of the first, second, or third class.

Mr. Barusch asked that the substitute motion be amended to exempt from sales and use taxes all transportation.

The substitute motion, as amended, passed unanimously with Rep. Harper absent for the vote.

Ms. Rockwell asked whether the TRC would like two bills to be prepared, one to exempt all transportation and the second to amend Subsection 59-12-104(16)(b)(ii) as originally requested by Mr. Buchi. She noted that if the TRC determines that the bill to exempt all transportation would result in an excessive revenue loss, the other bill would be available for the TRC's consideration. The TRC asked that these two bills be prepared and presented at a future meeting.

Rep. McGee said that she supports removal of sales and use taxes on this type of transportation.

Ms. Rockwell reviewed "Exemption for Fares Charged to Persons Transported Directly by a Public Transit District." She explained that this sales and use tax exemption was originally enacted in 1994 and has not been previously reviewed by the TRC. There have been no substantive changes made to this exemption and there are no legal or administrative issues to consider.

Mr. Steve Young, Holme Roberts & Owen, representing the Utah Transit Authority, distributed "Comments on Mass Transit Sales Tax Exemption." He said that the TRC should vote to retain this exemption for several reasons.

A motion was not made regarding this sales and use tax exemption due to the adoption of the earlier substitute motion to exempt all transportation from sales and use taxation.

The isolated and occasional sales and use tax exemption was not discussed.

#### **4. Other Business / Adjourn**

Mr. Prescott noted that the TRC has received a request from the Utah State Tax Commission to review the individual income tax on trusts and estates. He suggested that the TRC make this a priority study item and that the TRC seek the services of experts in this area.

Mr. Jones said that he would like to receive more information on the activities of the Tax Reform Task Force.

Chair Prescott adjourned the meeting at 4:37 p.m.